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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,045	08/05/2003	Masahide Yamaki	16919	6952
23389 7590 12/28/2007 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530			EXAMINER SMITH, TERRI L	
			ART UNIT 3762	PAPER NUMBER
			MAIL DATE 12/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/635,045	Applicant(s) YAMAKI ET AL.	
	Examiner Terri L. Smith	Art Unit 3762	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-8-06</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 18 December 2006 have been fully considered but they are not persuasive. Applicant's argument on page 11 of the **REMARKS** stating that "... Wang makes no differentiation between the slave controllers ..." is moot because Applicant is not claiming differentiation between control units (it is noted that Examiner pointed to the slave controllers as the control units cited in claims 1 and 7 set forth in the presently claim invention).

Examiner respectfully disagrees with Applicant's continued argument that "... Wang ... also does not make any differentiation between the communication protocols used in the master controller and the slave controllers." As cited in paragraph 10 of the Office Action mailed on 18 September 2006, "a first protocol ... (e.g., 24-insufflator) ..." and "...a second protocol that differs from the first protocol ... (e.g., 20-robotic arm or laser) ..." At column 3 in lines 31-33 (also cited in said Office Action), Wang et al., U.S. Patent 6,642,836 discloses "...each slave controller provides the master controller information relating to the **specific** devices that are connected thereto, ..." [*emphasis Examiners*]. It is the Examiner's position that in order for a slave controller to provide the master controller information relating to the **specific** devices that are connected thereto, the protocol has to be different for each specific device in order for the master controller to know which device is connected to it.

In response to the second paragraph on page 11 of the **REMARKS**, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicant's argument and on page 12 stating that "... Wang fails to disclose the "priority information" (e.g., the type of medical device/the function of the medical device)" is not persuasive. In column 2 at line 54–57, for example, Wang et al. disclose priority information as argued by the Applicant as follows: "... if the user wants to operate the laser, a device used in many surgeries and contemplated as being included as one of the devices that may be operated via the control system of the present invention ..." which Examiner interprets as a type of medical device because it is used to perform a medical procedure. The description cited in column 2 at line 54–57 is also shown, for example, in FIGS. 1 and 4 of the Wang et al. prior art which Examiner pointed to in said Office Action.

Consequently, Examiner maintains claims 1–12 rejected under 35 U.S.C. § 102(e) as being anticipated by Wang et al., U.S. Patent 6,642,836 as set forth in said Office Action and as re-submitted herein below.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the Applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the Applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1–12 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al., U.S. Patent 6,642,836.

4. Regarding claims 1 and 7, Wang et al. disclose a medical control device (FIG. 1, element 10, control system) comprising: a first communications control unit (e.g., 14-slave controller) which utilizes communications of a first protocol to transmit and receive data to and from a first medical device (e.g., 24-insufflator) that is used to perform medical treatments;

a second communications control unit (e.g., 14-slave controller) which utilizes communications of a second protocol that differs from the first protocol to transmit and receive data to and from a second medical device that is used to perform medical treatments (e.g., 20-robotic arm or laser; column 2, line 55); and

a control part (e.g., 12-master controller) which transmits and receives data utilizing communications of a third protocol that is shared by the first communications control unit and the second communications control unit, and which controls the first communications control unit and the second communications control unit (e.g., FIG. 1; column 3, lines 20–35; column 4, lines 51–53);

a first communications control circuit (claim 7) (e.g., FIGS. 1 and 3) and a second communications control circuit (claim 7) (e.g., FIGS. 1 and 3) and a control circuit (claim 7) (e.g., FIG. 4).

5. With respect to claims 2–6 and 8–12, Wang et al. disclose a control part has a memory part (e.g., column 5, lines 65–column 6, lines 1–15; column 8, lines 32–35) that stores priority information relating to the communications processing of the first communications control unit and the second communications control unit (e.g., column 8, lines 32–40), and the first communications control unit and the second communications control unit are controlled on the basis of the priority information (e.g., column 8, lines 32–49) (claims 2 and 8);

priority information is information that corresponds to the type of protocol (claims 3 and 9) (e.g., column 2, lines 33–45) and medical device (claims 4 and 10) (e.g., column 2, line 55; column 9, lines 14–16) and the function of the medical device (claims 5 and 11) (e.g., column 2, lines 54–55; column 9, lines 14–17);

a control part performs processing with the first communications control unit and second communications control unit split in a time series in accordance with the priority information (claims 6 and 12) (e.g., column 8, lines 32–49).

### *Conclusion*

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this Final Action is set to expire THREE MONTHS from the mailing date of this Action. In the event a first reply is filed within TWO MONTHS of the mailing date of this Final Action and the Advisory Action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the Advisory Action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the Advisory Action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this Final Action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Terri L. Smith whose telephone number is (571) 272-7146. The Examiner can normally be reached on Monday - Friday between 7:30 a.m. - 4:30 p.m..

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



TLS  
December 13, 2007

13 December 2007

  
GEORGE R. EVANISKO  
PRIMARY EXAMINER

12/23/7